

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

WP(C).No. 10852 of 2007(P)

PETITIONER:

O.BINDU, AGED 37 YEARS,
HSA (SANSKRIT), THRITHALA HIGH SCHOOL,
THRITHALA, PALAKKAD DISTRICT.

BY ADV. SRI.M.SASINDRAN
SRI.TOJAN J. VATHIKULAM

RESPONDENTS:

1. THE DISTRICT EDUCATIONAL OFFICER,
OTTAPPALAM, PALAKKAD.
2. THE HEADMISTRESS, THRITHALA HIGH
SCHOOL, THRITHALA, PALAKKAD DISTRICT.
3. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT, DEPARTMENT OF GENERAL
EDUCATION, SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SMT.SREELATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 10/07/2007, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: True copy of the order of the leave sanction dated 13.9.1996.

Ext.P2: True copy of the Form of Option dated 17.7.2006.

Ext.P3: True copy of the statement showing fixation of pay in the revised scale dated 17.7.2006.

Ext.P4: True copy of the order bearing No.B2/4816/06 dated 1.12.2006 issued by the 1st respondent.

Ext.P5: True copy of the circular No.38/2002 dated 3.6.2002.

// True copy //

P.A. to judge
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A.K.BASHEER, J.

W.P.(C)No.10852 OF 2007

Dated this the 10th day of July, 2007

JUDGMENT

Petitioner had availed of leave without allowance to pursue her study for B.Ed. Course while she was working as an Upper Primary School Assistant. Petitioner was sanctioned leave for 179 days from 4.6.1996 to 29.11.1996 with permission to suffix holidays on 30.11.1996 and 1.12.1996.

2. According to the petitioner, leave was sanctioned by the Government as revealed from Ext.P1. The period of leave was counted for sanction of Grade Promotions, increments, etc. She was thereafter promoted as High School Assistant in 2003. However, the grievance of the petitioner is that she has been denied the benefits of 2006 pay revision on the ground that the period of leave without allowances cannot be counted for increments and other service benefits.

3. Petitioner's application for option to come over to the revised scale pursuant to 2006 Pay revision with effect from 1.7.2006 was returned along with Ext.P4 stating that petitioner would not be entitled to get the service benefits for the period availed of by her as leave without allowance to pursue her studies.

4. Learned counsel submits that the issue is squarely covered in favour of the petitioner in view of the judgments of this court in W.P.(C)No.26782/05 as well as in **Deepika V. State of Kerala [2007 (1) KLT 71]**. The grievance of the petitioner is that the impugned order has been issued without adverting to the dictum laid down by this Court in the above two judgments.

5. In the above facts and circumstances, Ext.P4 is quashed. The first respondent shall reconsider the matter in the light of the two judgments referred to above. This shall be done as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a copy of this judgment after affording sufficient opportunity to the petitioner to be heard. Petitioner shall produce a certified copy of this judgment along with a copy of the writ petition before the 1st respondent for compliance.

Writ petition is disposed of as above.

A.K.BASHEER, JUDGE

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